

November 6, 2001

REVENUE REGULATIONS NO. 19-2001

SUBJECT : Amendment to the Agreement Between the Bureau of Internal Revenue and the Authorized Agent Bank (AAB) Relative to the Collection of Internal Revenue Tax Liabilities Through the Banking System Pursuant to Executive Order No. 937, as Implemented by Revenue Regulations No. 5-84, as Amended.

TO : All Internal Revenue Officers and Others Concerned.

SECTION. 1. SCOPE. - Pursuant to the provisions of Executive Order No. 937 dated March 1, 1984, as implemented by Revenue Regulations No. 5-84 (RR 5-84) as amended by Revenue Regulations No. 1-85 (RR 1-85), Revenue Regulations No. 15-94 (RR 15-94) and Revenue Regulations No. 13-96 (RR 13-96), these Regulations are hereby promulgated to amend/update the provisions contained in the Agreement between the Bureau of Internal Revenue (BIR) and Authorized Agent Bank (AAB) relative to the collection of internal revenue tax liabilities through the banking system attached as Annex "A" of RR 5-84.

SEC. 2. CRITERIA FOR THE SELECTION OF BANKS AND THE CONDITIONS UNDER WHICH THEY MAY BE ACCREDITED OR AUTHORIZED TO COLLECT INTERNAL REVENUE TAXES. - Section 2(3) of RR 5-84, as amended, is hereby further amended to read as follows:

"(3) The bank shall, upon approval of the application, execute a Memorandum of Agreement with the Bureau of Internal Revenue in the prescribed format attached as Annex 'A' and which forms an integral part hereof."

SEC. 3. RESPONSIBILITIES OF OFFICES INVOLVED IN THE COLLECTION OF NATIONAL INTERNAL REVENUE TAXES THRU THE BANKING SYSTEM. - Section 5(B) of RR 5-84, as amended, is hereby further amended to read as follows:

"B. The Bureau of Internal Revenue shall -

x x x

13. be authorized to waive penalties, surcharges and interest due on delayed collections, and/or delayed or erroneous reports as well as procedural errors committed. Such waiver of penalties, surcharges and interest due shall, in all instances, be approved by the Commissioner of Internal Revenue (CIR), upon the recommendation of the Bank Accreditation Committee (BAC). The BAC may recommend for a condonation of penalties, surcharges and interest, provided that the delay in the remittance of collections and/or delay in the submission of reports, and/or submission of erroneous reports as well as procedural errors committed, are caused by civil disturbance or fortuitous events such as: typhoons, floods, fires, earthquakes, labor disputes or strikes. Provided, further, that if the same is caused by other reasons which the BAC deems meritorious, the waiver of penalties/sanctions for such meritorious cases (other than those caused by civil disturbance or fortuitous events) shall

not be more than sixty percent (60%) of the total amount of penalties imposed. Provided, finally, that should the BAC , after its evaluation, recommend for a waiver of penalties by more than sixty percent (60%), such request for waiver, together with the BAC's recommendation, shall be elevated to the Management Committee (MANCOM) for confirmation before the same is submitted to the CIR for his approval."

SEC. 4. TRANSITORY PROVISIONS. -

4.1. Payment of Outstanding Penalties. - AABs, which have outstanding penalties due to non-compliance with the procedures prescribed for the collection of taxes, submission of reports, period of remittance, as well as procedural errors in receiving taxpayers' returns, may request for a waiver of penalties/sanctions by offering an amount of compromise not less than the minimum rates provided hereunder covering the years when the violations have been committed :

4.1.1. Procedural Errors/Delay in Submission of Reportorial Requirements. -

For Calendar Year 2000 (CY2000) and prior years - 20%

For Calendar Year 2001 (CY2001) - 40%

4.1.2. Late Remittance of Tax Collections. - An amount of compromise not less than the prevailing interbank borrowing rate at the time the collection becomes due for remittance plus five percent (5%).

Offers of compromise for penalties, surcharges and interest imposed on violations committed for Calendar Year 2000 and prior years based on rates provided above shall be submitted to the BAC on or before December 15, 2001 for evaluation and consideration. The BAC shall thereupon submit its recommendation to the CIR for his approval. The payment of the approved offer of compromise should be made not later than January 15, 2002.

Offers of compromise for penalties, surcharges and interest imposed on violations committed for Calendar Year 2001 based on the rates provided above, shall, on the other hand, be submitted to the BAC within thirty (30) days from receipt of formal notice for payment from the BIR, for its evaluation and consideration. The BAC shall thereupon submit its recommendation to the CIR for his approval. Payment of the approved offer should be made not later than thirty (30) days from receipt of written notice of approval of compromise offer from BAC.

The periods for the offer and payment of compromise as provided above shall be deemed final, thus, shall not be subject to any grant of extension.

The AABs shall be required to pay in full their outstanding liabilities if the offer of compromise for penalties, surcharges and/or interest as approved by the CIR is not paid within the prescribed period. Such failure shall constitute a ground for the revocation/non-renewal of their accreditation.

4.2. Execution of New MOA After December 31, 2001.- All banks presently authorized to collect internal revenue taxes may continue to do so until such time that a new MOA as prescribed in **Annex "A"** hereof shall thereupon be executed

between the BIR and the banks which have qualified for accreditation.

SEC. 5. REPEALING CLAUSE. - The provision of any revenue regulations, revenue memorandum order, revenue memorandum circular, or any other revenue issuances inconsistent with these Regulations are hereby repealed, amended, or modified accordingly .

SEC. 6. EFFECTIVITY CLAUSE. - These Regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation.

(Original Signed)
JOSE ISIDRO N. CAMACHO
Secretary of Finance

Recommending Approval:

(Original Signed)
RENÉ G. BAÑEZ
Commissioner of Internal
Revenue

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement is executed and entered into by and between:

The **BUREAU OF INTERNAL REVENUE (BIR)**, a government agency created and existing under the laws of the Philippines with principal office at the BIR National Office Building, BIR Road, East Triangle, Diliman, Quezon City, represented herein by its Commissioner, _____, herein referred to as "BIR",

and

The ____ (Name of Bank) __, herein referred to as the "**BANK**", represented by its ____ (Name of Authorized Representative and Position) , with principal office located at _____;

WITNESSETH:

WHEREAS, to protect the interest of the Government, there is a need to secure payments made by taxpayers through authorized agent banks (AABs) and enable timely generation and submission of accurate tax collection information and management reports;

WHEREAS, the AAB's obligation to collect, pursuant to government auditing rules and regulations, carries with it the responsibility to remit accurately and on time all such collections to the Bureau of Treasury;

WHEREAS, both the AAB and the BIR recognize the need to adopt security measures to safeguard the collections of revenues and put in place a system which will ensure that access to information on such transactions shall be limited only to the duly authorized representative of the AABs and the BIR;

WHEREAS, to assure taxpayer convenience, there is a need for sufficient number of offices/locations where the taxpayers can make their payments;

WHEREAS, authorized field auditors of the Commission on Audit (COA) and the BIR may, at any reasonable time, examine any document or record of the bank pertaining to the collection and remittance of internal revenue taxes;

WHEREFORE, for and in consideration of the foregoing premises, the parties hereto have mutually agreed, as they hereby agree, that:

The BANK shall -

1. Comply with and submit all requirements prescribed in **Annex "A-1"**, herewith attached, and such other issuance that may be subsequently issued by BIR, and shoulder all expenses concerning the accomplishment and submission thereof;

2. Abide by the rules and regulations promulgated by the BIR in connection with this Agreement such as:

2.1 Have adequate infrastructure (manpower, branch offices, computer and communication technology) to remit accurate daily tax collections and transmit all documents and information on time;

2.2 Comply with BIR reporting requirements as to timeliness and accuracy, i.e., error-free collection information within 24-hours for banks under the Electronic Data Transmission System (EDTS), except during transition period upon approval of the BIR and during deadlines where a 48-hour transmission is authorized;

3. Pay the penalties in accordance with existing issuances and abide by the sanctions, if any, in accordance with the schedule of penalties and sanctions as provided in **Annex "A-2"**. Imposition of penalties, surcharges and interest may, however, be waived by the Commissioner, upon the recommendation of the Bank Accreditation Committee (BAC) on grounds that the delay in the remittance of collections, submission of reports and/or submission of erroneous reports, as well as procedural errors committed are caused by civil disturbance or fortuitous events or by some other reasons which the BAC deems meritorious. The BAC may recommend for a condonation of penalties, surcharges and interest, provided, that the delay in the remittance of collections and/or delay in the submission of reports and/or submission of erroneous reports as well as procedural errors committed, are caused by civil disturbance or fortuitous events such as: typhoons, floods, fires, earthquakes, labor disputes or strikes. Provided, however, that if the same is caused by other reasons which the BAC deems meritorious, the waiver of penalties/sanctions for such meritorious cases (other than those caused by civil disturbance or fortuitous events) to be recommended by BAC, shall in no case be more than sixty percent (60%) of the total amount of penalties imposed. Provided, finally, that should the BAC, after its evaluation, recommend for a waiver of more than sixty percent (60%) of the total amount of penalties

imposed, such request for waiver together with the BAC's recommendation shall be elevated to the Management Committee (MANCOM) for confirmation before the same is submitted to the Commissioner for his approval. Cancellation of accreditation shall be resorted to for continued non-compliance;

4. Hold tax payments in a fiduciary capacity for the account of the national government (Bureau of Treasury). Such funds held in trust must then be considered as separate from other funds in its custody;

5. Authorize the BSP, through its Accounting Department, to debit its Demand Deposit Accounts (DDA) corresponding to the total daily collections due for remittance on Day 6 or 5 Calendar Days after the date of collection or receipt of tax payment, such amount to be credited by BSP to the "Special Account-BIR Collection" of the Treasurer of the Philippines. Remittances of AABs own tax liabilities shall follow the procedure defined in RMO 4-99 dated October 27, 1998;

6. Authorize the BSP, through its Accounting Department, to debit its DDA corresponding to the unremitted collections and accumulated penalties, surcharge and interest, net of whatever penalties waived by the BIR, after four (4) months from date of the Final Demand;

7. Allow authorized field auditors of the COA and the BIR to verify any document or record of the bank pertaining to collection and remittance of internal revenue taxes, provided the law on secrecy of bank deposits is strictly observed, and provided, further, that such verification shall be made only during banking days, subject to prior written notice to the BANK;

8. Accept and process all tax returns with payment; and

9. Inform the BIR of any planned structural changes such as merger, buy-out, consolidation and similar changes.

The BIR shall -

1. Reserve the right to limit or withdraw the authority of the BANK to accept tax payments for cause or to limit the areas where the BANK can collect or to direct the BANK to provide bank services in area/s it has branches not adequately served by other collecting banks subject to the BANK's agreement of such moves;

2. Conduct field verification of BANK's compliance with BIR rules and regulations with regard to its responsibility as collecting agents;

3. Suspend the authority to collect internal revenue taxes or terminate this Agreement in case of violation of any term and condition stated herein, or at anytime cancel the BANK's accreditation if the interest of the government is prejudiced;
4. Notwithstanding the payment of penalties for violations or acts of omission, suspend/cancel the BANK's accreditation. The suspension/cancellation of the BANK's branch accreditation does not necessarily result in the suspension/cancellation of the BANK's Head Office (AAB-HO) accreditation. However, the suspension/cancellation of the AAB-HO accreditation automatically results in the suspension/cancellation of the AAB-branch accreditation;
5. Request the BSP, thru its Accounting Department, to debit the DDA of the Bank for the amount of unremitted collections and accumulated penalties, surcharge and interest, net of penalties waived by the BIR after four (4) months from the Date of Final Demand;
6. Initiate civil or other special actions against the BANK or the officers thereof, if necessary, pursuant to Revenue Regulations No. 4-97, Sec. 7(b) for any diversion, non-remittance, under-remittance or other violations through the fault or gross negligence of the bank;
7. Initiate criminal actions necessary pursuant to Revenue Regulations No. 4- 97, Sec. 7 (b) against any BANK officer or employee concerned for any willful diversion, non-remittance, under-remittance or other violations through the fault or gross negligence of said BANK officer or employee;
8. Inform officers of the BANK, through the Bankers Association of the Philippines (BAP), and the individual bank of advises/updates, bulletins, issuances, etc., not later than forty eight (48) hours from issuance thereof by the Commissioner or his duly authorized representative;
9. Advise the BANK on Revenue Memorandum Orders (RMOs) and system amendments affecting the collection system within two (2) days from the signing of the RMO or approval of system amendments. Amendments affecting technology or system changes and its implementation should take effect not later than thirty (30) days from the availability of the new BIR technology or system;
10. Train the trainers of the BANK on Limited Bank Data Entry System (LBDES), Electronic Data Transmission System (EDTS), Large Taxpayers System (LTs) and enhancements thereto, including the effects thereof on AABs;
11. Provide the BANK with ample supply of tax return forms and other

pertinent documents;

12. Provide information to the BANK's central collection units regarding exception reports from Revenue District Offices (RDOs), the Revenue Data Center (RDC) and the Information Systems Operations Service (ISOS), including penalties thereon, on a monthly basis, within ten (10) days after receipt of the Collection Service (CS) of said reports;

13. Respond formally to clarifications on procedural and technical issues raised by the BANK within fifteen (15) days from receipt of the request. Clarifications affecting all AABs shall be disseminated to the AAB membership through the BAP;

14. Request BSP to credit the DDA of BANK for the amount representing its over-remittance of internal revenue collections fifteen (15) days after confirmation by the BIR of such over-remittance;

15. Ensure utmost confidentiality of data and information provided by the BANK in connection with this Agreement.

This Agreement shall be effective from the date of signing hereof until such time that it is terminated by both parties, or by the AAB subject to the approval of the BIR, or by the BIR in case of violation of any terms and conditions stated herein or for any reasonable cause, with thirty (30) days advance notice.

Provided, however, that additional terms and conditions may be entered into between the BIR and the AAB servicing taxpayers under the jurisdiction of the Large Taxpayers Service which shall be embodied in a supplemental Memorandum of Agreement (MOA) to be executed by both parties.

IN WITNESS WHEREOF, we sign this Agreement this ____ day of _____, 2001.

BUREAU OF INTERNAL REVENUE

By:

Commissioner of Internal
Revenue

By:

Name of
Bank

President

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
_____) S.S

BEFORE ME, this _____ day of _____ 2001, at
_____ personally appeared the
following:

NAME	COMMUNITY TAX <u>CERTIFICATE NO.</u>	DATE / <u>PLACE ISSUED</u>
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(Commissioner - BIR)

(Bank
Representative/Position)

Known to me and to me known to be the same persons who executed the foregoing instrument and acknowledged to me that the same is their free and voluntary act and deed and those of the agency and bank represented.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____
day of _____, 2001.

**NOTARY
PUBLIC**

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

Annex "A-1"

**SCHEDULE OF ISSUANCES
GOVERNING AUTHORIZED AGENT BANKS (AABs)**

Issuances No.	Date	Subject
RMO 19-91	06/10/1991	Prescribing the procedures for receiving and processing of value -added tax return filed thru the Banking System under the NPCCS
RMO 21-91	06/27/1991	Prescribing the use of the Revised Authority to accept payment (ATAP- BIR Form No. 2319A-P) for the NPCCS pilot project in RDO 31, San Juan, Mandaluyong
RMO 29-91	09/11/1991	Prescribing the procedures on the Receipt, Transmittal & Processing of Tax Returns Filed thru the banks under the NPCCS
RMO 31-91	09/17/1991	Procedures on the Receipt, Transmittal & Processing of VAT Returns/ATAP's paid to collection officers (CO's)
RMO 35-91	10/17/1991	Amendments addenda to RMO Nos. 19-91 & 29-91, relative the Receipt of Tax Returns & Payment of Tax thru the Banks under the New Payment Control System (NPCCS)
RMO 42-91	12/18/1991	Prescribing the use of Revised Authority to Accept payment
RMO 43-91	12/19/1991	Expanding the coverage of RMO No. 31-91 to include other taxes under the New Payment Control System (NPCCS)
RMO 1-92	01/03/1992	Evaluation of the NPCCS
Unnumbered Memo	01/08/1992	Procedure in the implementation of New Payment Control System (NPCCS) beginning January 2, 1992
RMO 4-92	12/18/1991	Prescribing the Procedures on the Processing of Value-Added Tax (VAT) Returns originating from the seven(7) NPCCS Pilot RDO's
RMO 5-92	01/13/1992	Amendment /addendum to RMO No. 29-91 Relative to the Receipt of Individual Income Tax Return (BIR Form Nos. 1701 & 1701A) under the NPCCS
RMO 6-92	01/15/1992	Amendment of RMO 29-86 dated September 3, 1986 as amended by Revenue Memorandum Order No. 16-88 dated April 18, 1989 relative to the payment of capital gains tax on extra-judicial foreclosure sale

		initiated by banks, finance, and insurance companies
RMO 12-92	03/10/1992	Clarification of Certain Issues concerning the NPCCS
RMO 16-92	03/04/1992	Prescribing the Revised Procedures in the processing of Batch Control Sheet (BCS) Reports/Returns Received from Accredited Agent Banks/ Office of Collection Officers Including Decentralization of preparation of the list of stop-filers/non-filers & Reminder letters
RMO 27-92	06/10/1992	Prescribing the Revised Formats used in the Evaluation of the NPCCS
RMO 1-93	12/15/1992	Expanding the coverage of RMO 29-91 & 31-91 to exclude all taxes under the NPCCS and totally discontinuing/abolishing the PO/CR System of Payment
RMO 18-93	03/01/1993	Clarification of Certain Issues concerning expanded NPCCS covering all taxes
RMO 19-94	03/17/1994	Clarification of certain issues on the filing of ITR and the use and issuance of stick-on labels
RMO 35-94	04/25/1994	Amending certain portions of RMO 27-82 on Processing of the NPCCS Evaluation Report shall no longer be submitted to Management Division but to Collection Service
RMO 61-94	06/24/1994	Prescribing the procedures for processing and submission of Batch Control Sheet (BCS) in diskette by all accredited Banks
RMO 63-94	06/03/1994	Prescribing the procedures on the receipt, processing, control transmittal and collection of Returned/Dishonored checks under the NPCCS
RMO 11-96	05/30/1996	Audit of Banks, Insurance Companies and other financial intermediaries
RMO 11-97	03/25/1997	Authorized banks accounts of Regional Offices and their Signatories
RMO 18-97	04/10/1997	Signatories of checks drawn against Regional Banks Account
RMO 19-97	04/18/1997	Prescribing the Policies and Procedures to implement Revenue Regulations No. 4-97 prescribing the acceptable modes of payment of Internal Revenue Taxes and Requiring the Enrollment of Taxpayers with Accredited Agent Banks
RMO 40-97	06/30/1997	Clarifications on the implementation of RR # 4-97 & RMO No. 19-97 on the acceptable modes of payment

RMO 42-98	05/18/1998	Prescribing the Policies, guidelines and procedures for processing payment data from Accredited Agents Banks (AABs) under non-computerized RDOs using the Limited Bank Data Entry System (LBDES) replacing the New Payment Control system (NPCS)
RMO 4-99	10/27/1998	Prescribing the policies and procedures for processing and monitoring of commercial and universal banks own tax liabilities
RMO 13-99	10/13/1998	Prescribing the policies, guidelines and procedures for payment capability roll out
RMO 20-99	02/10/1999	Standard procedures for the submission and processing of payment data and documents from accredited banks (AABs) under Revenue District Offices (RDOs) within and outside Metro Manila/Metro Cebu amending RMO Nos. 1-99 and 42-98
RMO 32-99	03/11/1999	Policies, guidelines & procedures for Accredited Agent Banks (AAB) conversion from NPCS to LBDE/EDT
RMO 37-99	04/08/1999	Procedures for non-ITS Revenue District Offices (RDOs) in conducting bank branch performance check
RMO 39-99	05/10/1999	Amendment to RMO # 31-99 on signatories of checks drawn against Regional Bank Accounts
RMO 46-99	05/25/1999	Procedures to address problems encountered by Revenue Accounting Division on CBR on-line inquiry facility
RR 14-93	08/31/1993	Payment of taxes by checks and bank debit memo
RR 15-94	08/08/1994	Further amendment of the penalties stipulated in the agreement prescribed in the Revenue Regulation No. 5-84 and 1-85
RR ____ -2001		Amendment to the agreement between the BIR and AAB relative to the collection of internal revenue tax liabilities
All Banks Advisories		

Annex "A-2"

AAB PERFORMANCE OF COLLECTION		
I. CRITERIA	REMITTANCE COLLECTION	
A. Timeliness	Deadline	Penalties for Delay

1. Remittance of collections	5th calendar day after receipt	20 % per annum surcharge + ¼ of 1% interest per day thereon but shall not be less than the prevailing interbank borrowing rate + 5% until the total amount and increments are fully paid
2. Submission of CRDC	5th calendar day after receipt	P200.00 per day but not to exceed 25% of tax collected
B. Completeness/Accuracy		
1. Under-remittance	Within 24 hours after deadline	Double the amount of under-remittance + 20% per annum surcharge + ¼ of 1% interest per day but shall not be less than prevailing interbank rate + 5% until the total amount and increments are fully paid
2. Over-remittance	For refund upon request of concerned bank	
3. Non-remittance	Within 24 hours after deadline	Double the amount of non-remittance + 20% per annum surcharge + ¼ of 1% per day but not less than interbank rate + 5% (automatic debit of bank account deposit) + disaccreditation of bank branch
II. CRITERIA	TRANSMISSION/PROCEDURAL ERRORS	
A. Timeliness	Deadline	Penalties for Delay
1. Transmission of collection data (EDT)	Ordinary day - w/in 24 hrs after collection date Deadlines (10th & 25th) - w/in 48 hrs after collection date	P200.00 per day but not to exceed 25% of the tax collected
2. Submission of BCS & tax Documents		
2.1 All Metro Mla/ Metro Cebu Branches	Every Tuesday of the following week	P200.00 per day but not to exceed 25% of the tax collected
2.2 All Non-Metro Mla / Non-Metro Cebu Branches	2nd Tuesday following the collection week	
B. Completeness/Accuracy	Standards	Penalties

1. BCS	100% complete and accurate	P200.00 per BCS but not to exceed 25% of the tax collected
1. No bank code in BCS 2. No tax type indicated 3. No date of collection 4. Incorrect numbering of BCS 5. Wrong BCS form used 6. Unmatched BCS information with actual returns -different TINs/ no TIN of TP -different names/ no name of TP 1.7 BCS total amount do not tally w/ total amount from documents		
2. Tax Returns Received	100% complete and accurate	Equal to or less than 10 errors per batch - no penalty, but in excess of 10 errors - P200.00 per erroneous return received
2.1 No name of taxpayer/no TIN on Return/Payment Form 2.2 No signature of taxpayer 2.3 No date on stamp "Received" 2.4 No machine validation 2.5 No stamp received 2.6 Payment on Return differ from Payment on screen 2.7 Returns submitted without corresponding BCS		

III CRITERIA		NON-COMPLIANCE	
A. Degree of Non-Compliance		Criteria	Penalties
1. Branch level			
1.1 First Offense		Aggregate of P10,000 of fixed penalties in a month	Payment of penalties + Reminder letter for improvement of quality performance
1.2 Second Offense		Aggregate of P15,000 of fixed penalties in 2 months	Payment of penalties + warning for suspension of accreditation
1.3 Third Offense		Aggregate of P18,000 of fixed penalties in 3 months	Disaccreditation
2. Bank Head Office			
2.1 First Offense		1.5% of branches non-compliant	Reminder letter for quality performance
2.2 Second Offense		2.5% of branches non-compliant	Warning for suspension of accreditation
2.3 Third Offense		3% of branches non-compliant	Disaccreditation
B. Payment of Penalties		Deadline	Penalties/Action
1. Non-response to notice of penalties from Revenue Data Center to AAB-branch		15 days after receipt	RDC transmit the reports on penalties to IPQS for consolidation and submission to Collection Programs Division
2. Non-response to notice of penalties from CPD/RAD to AAB-Head Office		15 days after receipt	Issuance of demand letter
3. Non-response to demand letter		30 days after receipt	Disaccreditation
IV. CRITERIA		INACTIVE BANK BRANCHES	
		Criterion	Penalty/Action
Bank Branch Level		No transaction for six (6) consecutive months	Automatic Disaccreditation